Calendar No. 40

98TH CONGRESS, 1st Session | SENATE | REPORT No. 98-22

AMENDING SECTION 503 OF THE SMALL BUSINESS INVESTMENT ACT OF 1982

MARCH 11 (legislative day, MARCH 7), 1983.—Ordered to be printed

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Mr. D'AMATO, from the Committee on Small Business, submitted the following

REPORT

[To accompany S. 499]

The Committee on Small Business, to which was referred the bill (S. 499) to amend Section 503 of the Small Business Investment Act of 1958, having considered the same, reports favorably thereon with an amendment in the nature of a substitute, and recommends the bill, as amended, do pass.

I. COMMITTEE CONSIDERATION

S. 499, a bill to amend Section 503 of the Small Business Investment Act of 1958 to prevent the Small Business Administration from declining to participate in Section 503 projects including or collateralized by tax-exempt obligations, was introduced by Senator Alfonse M. D'Amato on February 16, 1983 and referred to this Committee.

On February 17, 1982, Senator D'Amato, chaired a hearing of the Small Business Committee on the bill. On September 28, 1982, the Subcommittee on Rural and Economic Development, chaired by Senator D'Amato, held an additional oversight hearing on the Section 503 program. At these hearings, the Committee received testimony from small business owners who received Section 503 financing, officials from state development corporations, representatives of certified development corporations, the Department of Treasury, and the Small Business Administration (SBA).

With the exception of Administration witnesses, there was complete agreement among the participants at the hearing that the

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proposal contained in S. 499 was absolutely essential if the Section 503 program were ever to reach its full potential as an economic development program. The testimony was unanimous that the 503 loan program is an excellent program, and only one glaring defect prevents it from becoming the Federal Government's major economic development program—the refusal of the SBA to participate in any 503 loan where other parts of the financing package include, or are collateralized by, tax-exempt industrial development bonds.

The Committee met in Executive Session on March 9, 1983, and with a quorum present adopted one amendment and ordered favorably reported S. 499 with an amendment in the nature of a substitute.

Senator Levin offered an amendment dealing with the Administration's Pollution Control Equipment Contract Guarantee Program to provide that SBA, subject to the existence of qualified contracts, would not decline to issue guarantees on contracts financed through the use of tax exempt industrial development bonds. The amendment was adopted by a voice vote, and incorporated in the Committee amendment.

The committee amendment, as reported, is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. This Act may be cited as the "Certified Development Company Improvement Act".

SEC. 2. Section 503(a)(2) of the Small Business Investment Act of 1958 is amended by striking "Such guarantees" and inserting in lieu thereof "Except as provided in subsection (e), such guarantees".

SEC. 3. Section 503(a)(4) of the Small Business Investment Act of 1958 is amended to read as follows:

"(4) Any debenture issued by any State or local development company with respect to which a guarantee is made under this section, or any loan made with the proceeds of such debenture guaranteed under this section—

"(A) in the case of financings for projects which include or are collateralized by obligations described in section 103(b) of the Internal Revenue Code of 1954, shall be subordinated by the Administration to any such obligation; and

"(B) in the case of financings for projects which do not include and are not collateralized by obligations described in section 103(b) of the Internal Revenue Code of 1954, may be subordinated by the Administration to any other debenture, promissory note, or other debt or obligation of such company.".

SEC. 4. Section 503 of the Small Business Investment Act of 1958 is amended by adding at the end thereof the following new subsection:

"(e)(1) The Administration shall not decline to participate in a financing of a project under this section which otherwise meets the requirements of this section because sources of financing for the project include or are collateralized by obligations described in section 103(b) of the Internal Revenue Code of 1954.

"(2) The Administration and any other agency or official of the Federal Government shall not restrict the use of debentures guaranteed under this section with obligations described in section 103(b) of the Internal Revenue Code of 1954 if the project being so financed otherwise complies with the requirements of this section.".

SEC. 5. (a) Section 102 of the Small Business Investment Act of 1958 is amended by inserting "(a)" after the section number, and adding at the end thereof the following:

"(b) With respect to the program authorized by sections 404 and 405 of this Act, it is the declared policy of the Congress that the guarantee of payments for use of pollution control facilities would not cause the interest on tax-exempt obligations to finance such facilities to be included in the gross income of the bondholders.".

(b) Section 404(b)(1) of the Small Business Investment Act of 1958 is amended by striking the phrase "the guarantee authorized in the case of pollution control facilities or property may be issued" and inserting in lieu thereof "and subject only to the existence of qualified guarantee applications of eligible small business concerns and within the authority available to the Administration, the Administration shall

not decline to issue the guarantee authorized in the case of pollution control facilities or property".

Amend the title to read:

A bill to require the usage of tax-exempt financing in connection with the Small Business Administration's Section 503 loan program and Pollution Control Equipment Contract Guarantee Program.

II. Legislative History

A. PUBLIC LAW 96-302

The Small Business Administration's 503 Certified Development Company Program was enacted July 2, 1980, as a part of P.L. 96-302. Under the section 503 program, SBA is authorized to guarantee debentures issued by certified development companies (CDC's) to finance the purchase of land, plant and equipment, i.e., fixed assets, for an identifiable small business concern. By law, 503 loans can be for as much as 50 percent of a project's cost, up to a maximum of $500,000. The other 50 percent must come from the private sector, usually the small business concern and a bank. Maturities on these loans can be for up to 25 years.

The purpose of the program is to leverage the SBA guaranteed loan to encourage the private sector to make long-term capital available to small businesses on reasonable terms in order to create and retain jobs in local communities. Section 503 of the Small Business Investment Act was designed to make SBA an active partner with state and local governments and the private sector. Under Section 503, banks are encouraged to make long-term loans available to small businesses under favorable terms. Without Federal guarantee programs such as 503, banks are often reluctant to make such loans to small companies. The creation of a substantial number of new jobs is a requirement before any such loan can be made under the Section 503 program.

When the Section 503 program was enacted by Congress, it was specifically intended that this program could and should work in conjunction with the local community's ability to provide their part of the financing through the use of industrial development bonds.

When the 503 program was established, the Conference Report to accompany P.L. 96-302 stated:

> SBA should not disapprove the guarantee of any debenture, or any loan made with the proceeds of a debenture issue, solely because the proceeds would be used in a project whose other sources of financing include, or are collateralized by, tax-exempt industrial revenue or development bonds.

This language was agreed to by the conferees in recognition of the fact that industrial development bonds (IDB's) have been one of the most valuable tools for local economic development and have made capital available to thousands of small businesses which might otherwise have been unable to secure adequate and affordable financing.

Consistent with the Conference language, SBA regulations, 13 CFR Part 108.503-4(c), state:

> . . . SBA may participate in projects whose other source of financing include or are collateralized by tax-exempt obligations. Further, loans made with the proceeds of 503 debentures may be subordinated to such obligations.

SBA's instructions to the field, however, stated that "SBA may not participate in projects whose other source of financing include, or are collateralized by, tax-exempt obligations." (Standard Operating Procedure Manual 50–22 para. 23.) The Committee's investigation disclosed that SBA had adopted this policy, contravening Congressional intent, at the direction of the Office of Management and Budget (OMB) in coordination with the Treasury Department. During executive branch consideration of SBA's Fiscal Year 1982 budget, OMB memorandum response to SBA's request under the heading of significant policy determinations states:

> Continuation of the Certified Development Company Debentures Program, provided that SBA develops procedures—satisfactory to OMB and Treasury—that preclude indirect guarantees of tax-exempt securities.

The Small Business Administration, therefore, in complete disregard of clearly expressed congressional intent, has refused to guarantee or participate in 503 loans for projects in which industrial development bond financing is used. This action has been taken as part of the Administration's overall policy of discouraging the use of small-issue industrial development bonds.

B. NEED FOR LEGISLATION

The Section 503 program is the Small Business Administration's premier program to promote local economic development. The role of small business in providing new jobs for our economy is clearly recognized and this program is designed to address small businesses' critical need for affordable long term capital to grow and to expand. By providing access to reasonably priced financing, the program sets the stage for small businesses to realize their growth potential, contributing permanent, lasting private sector jobs to our economy.

While testifying before the Committee, James C. Sanders, the SBA Administrator, stated that the Section 503 program best defines what the Administration is trying to accomplish in the area of local economic development. He described the program in these terms:

> The 503 program is one of the government's principal economic development tools to assist communities both urban and rural. It is intended to stimulate the growth and expansion of small businesses and to create jobs through a unique partnership between the Federal Government and certified development companies, which include State and local government and the private sector.
>
> The role of the certified development company is to be a catalyst in economic development and to marshal the resources necessary to complete economic development projects, combining resources from both the public and private sectors. These projects are designed to create or retain a

> meaningful number of jobs in the communities affected, with a special emphasis on distressed areas.

In referring to a specific 503 project that the Agency had recently approved in New York, Mr. Sanders submitted for the record the following additional statements describing the program:

> This is the program that best defines what the Reagan administration is trying to do . . . It gets the private and government sectors working together to form a company and make decisions locally.
>
> We're looking for a labor intensive program . . . The 503 program, right now, is our top priority in revitalizing the state's economy by fostering the creation of new firms and new jobs.

SBA began certifying CDC's in late 1980. As of January 31, 1983, 352 CDC's had been certified. Another 32 applications were pending nationwide. A majority of these development companies were just getting started, but 150 of them had already been involved in at least one financing by the end of 1982 and 90 of them had made more than one loan. All told, 833 loans had been made. The 40 percent of the project costs put up by the CDC's for these 833 loans totalled $150.3 million.

By October 1, 1982, 28,846 documented jobs had been created as a result of 503 loans, with an average SBA investment per job of only $3,990. The current SBA estimate of the number of jobs created approaches 40,000 and is increasing, and the average Federal investment per job has steadily declined since inception of the 503 program. The vast majority of the jobs created are permanent jobs in the manufacturing and wholesale/retail industries. Section 503 is a classic example of a Federal jobs program that works, and works well. However, the program has not yet reached its full potential.

While funding for other traditional economic development programs has been cut, the appropriations for the 503 program has been maintained or increased over the last three fiscal years. In Fiscal Year 1982, funds were appropriated to operate the program at a level of $250 million, and in Fiscal Year 1983, at a $350 million level. In the Committee's March 1, 1983, report to the Budget Committee on SBA's programs and policies for Fiscal Year 1984, the Committee recommended that this program level be increased to $500 million.

Unfortunately, because of the Administration's policy not to permit Federal participation in financing of projects where a portion of the project is financed through tax-exempt obligations, the utilization of the program has been severely restricted. For example, although the Congressionally established loan guarantee authority for the program was $250 million for Fiscal Year 1982, the Administration used a mere $99.6 million of this authority.

The provisions contained in S. 499 are intended to insure that, in the future, SBA will make full use of the program authority established by Congress. The Committee believes that full utilization of this program will result in the creation of thousands of new jobs.

It is clear from the legislative history of the Section 503 program that Congress fully intended tax-exempt obligations to be used as a

source of funding for the non-SBA guaranteed portion of a 503 project. Congress recognized that for small businesses in particular, IDB's are and can be a major tool for providing access to affordable financing for local economic development. SBA promulgated its final regulations on the 503 program, in keeping with the Congressional intent. Nevertheless, the guidelines established by OMB and the Department of the Treasury have forced SBA to disregard the Congressional intent and its own regulations in implementation of the program.

The Committee believes that the current OMB and Treasury policy will only prevent the 503 program from reaching its full potential as a major economic development program. At a time when massive unemployment and high interest rates persist, the economy desperately needs the added jobs that the 503 program creates.

In testimony before the Subcommittee on Urban and Rural Economic Development on September 28, 1982, Deputy Assistant Secretary Roger Mehle gave three reasons for the Administration's policy. Framed in the context of the Administration's overall preference for discouraging the use of tax-exempt IDB's, his reasons were as follows:

> First, placing the credit of the United States behind a tax-exempt obligation creates a security that is superior to direct obligations issued by the U.S. Treasury and is contrary to the spirit of the Public Debt Act of 1941, which prohibits direct issuance by Federal agencies of obligations the interest on which is exempt from Federal income taxation.
>
> Second, Federal guarantees of tax-exempts also have adverse effects on the municipal market because they create securities whch are superior to all other tax-exempt securities issued by State and local entities. Consequently, such guarantees add to the pressures on the municipal borrowers, and increase the borrowing costs of all municipal borrowers.
>
> Finally, a guarantee of a tax-exempt obligation is an inefficient means of Federal financing because the revenue loss to the Treasury greatly exceeds the interest benefits to the borrower of tax exemption.

With respect to the use of IDB's with 503 projects, Mehle further stated,

> The Administration would not object, however, . . . to a combination of an SBA guaranteed 503 debenture and tax-exempt securities . . ., so long as the SBA guaranteed debenture is in at least a parity position. . . .

In fact, on March 7, 1983, SBA published in the Federal Register proposed rules which would fully implement the Administration's recommendation that 503 debentures not be subordinated to loans made from the proceeds of the tax-exempt obligations.

The clear, immediate and unequivocal reaction of the private sector witnesses who heard Treasury's alternative proposal at the hearing was that this modification was practicably unworkable in the "real world" of 503 financing. Roger Peterman, President of

Commonwealth Small Business Development Corporation of Kentucky, said the "parity position" seemed to be based on,

> . . . a total misconception or lack of knowledge of the reality of these securities in the marketplace. There would not be any market, any public market, for an IDB that had a 503 subordinated to it. It would be a security that has to be held by the bank.

Don Gallagher, Vice President of Chemical Bank, Melville, New York, expressed serious reservations whether a bank would even consider such a proposal. As he explained, "[banks] are there to make first mortgages . . . They will not share that position with anyone."

Despite the Administration's attempt to curtail IDB financing, Congress in recent years has increasingly expressed support for the use of tax-exempt IDB's in the context of economic development. The Committee believes that this same preference to assist small businesses should be reflected in the implementation of the Section 503 program. In expressing a private sector opinion on the attraction of IDB's as part of the financing package, Roger Peterman stated:

> The decision to go ahead is obviously based on return relative to risk. If the return is not adequate because of high interest rates, the business is not going to go ahead. I think by bringing in the tax-exempt financing, it increases that return and also reduces the risk that the businessman is facing. I think the clear effect of allowing the 503 to be used with IDB's is not a double subsidy, but I think it just makes the IDB's available to small businessmen that don't have it available to them now. It encourages the bankers—one of our objectives to get involved with small business loans. So I think that we have to focus on that as being the effect.

Mr. Gallagher also shared the view that if the Administration reversed its current restrictive policy on the use of IDB financing, particularly with respect to the Section 503 program, it would be a vehicle to increase banks' loans and investments in small businesses. Mr. Gallagher indicated that if the principle of the Section 503 program was to encourage banks to make long-term financing available for small businesses, permitting the use of tax-exempt financing would make other bank investment funds available, and in some cases double the amount of money available for project financing. Scott Berman, President of Illinois' Lawrence Avenue Development Company, another witness before the Committee, stated that reversing the Administration's policy would significantly increase the job creation potential of this program.

The Committee believes that it is particularly important that the 503 program be recognized for its potential to provide employment opportunities in this country. This potential, particularly in terms of its very low costs to the Federal government when compared to public works employment, is tremendous. Assuming government figures of approximately $10,000 per year to create one job, it would require $1 billion in direct Federal outlays to create 100,000

public work jobs in a year. On the other hand, using the 503 program, the total financing is primarily through the private sector and the only Federal cost is the set aside for a loan loss reserve, which historically has proven to be a negligible amount. Further, the jobs created through 503 expansion would be ongoing private sector jobs as opposed to public work jobs which have traditionally required additional Federal outlays each year. By its design, the 503 program has an immediate and significant effect on job opportunities in urban areas that have local development companies already in place. The Committee believes that the Section 503 program offers the nation's small businesses—the bedrock of our competitive free enterprise system—a chance for needed capital with a minimum of Federal involvement. It also holds the potential for thousands of new, permanent jobs in the private sector.

C. COMMITTEE AMENDMENT

In addition to the substitute for the text of the original legislation, Senator Levin offered an amendment dealing with the SBA's Pollution Control Equipment Contract Guarantee Program.

This amendment to the Small Business Investment Act of 1958 ensures that SBA, subject to the existence of qualified contracts, "shall not decline" to issue guarantees on contracts financed through the use of tax-exempt industrial development bonds.

By amendments in 1976 to the Small Business Investment Act of 1958, Congress authorized the Small Business Administration to guarantee 100 percent of the payments due from eligible small businesses under qualified contracts for the planning, design, financing or installation of pollution control facilities or equipment mandated by governmental pollution control regulations. Contract financing is normally obtained from the proceeds of the sale of tax-exempt bonds issued by state or municipal authorities.

By using tax-exempt, SBA guaranteed, pollution control revenue bonds, SBA cooperates with commercial and investment banks and local and state authorities to make available long-term, low-interest financing to eligible small businesses in the same manner that large corporations obtain financing for pollution facilities.

The Committee has extensively reviewed the benefits of this program. A May 1981 oversight hearing, and testimony received by the Committee at its February 23, 1982 review of the President's Fiscal Year 1983 budget, reconfirmed that this is one of the most successful Small Business Administration programs.

Since the 1976 initiative, there have been few losses in the program and the initial $15 million capital contribution to the Pollution Control Bond Revolving Fund has nearly tripled through both fees charged for guarantees, and agency investments of idle funds.

The Congress has recognized the sound financial basis for this program, as well as the crucial gap it fills in making financing available to eligible small businesses for mandated, non-productive, pollution control equipment. For example, in the Omnibus Budget Reconciliation Act (P.L. 97-35), the Congress increased the maximum guarantee level for this program to $250 million. During the Senate's consideration of the Fiscal Year 1982 Commerce, Justice Appropriations Act (H.R. 4619), the Senate agreed to an amend-

ment offered by Senators Hayakawa and Levin to establish minimum levels for commitments for this program.

However, in January 1982, the Small Business Administration announced that, for the balance of Fiscal Year 1982, and for Fiscal Year 1983, the Agency would limit its guarantee commitments to $150 million. In addition, the Agency announced that none of the guarantee authority would be used for guaranteeing contracts financed with tax-exempt obligations. At the time SBA changed the pollution bond program, there was almost 100 applications totaling $181 million that were, in effect, rendered ineligible. Only five of these applicants were subsequently able to proceed with a taxable financing guarantee as mandated by the Administration's new policy.

In its budget recommendations to Congress for Fiscal Year 1984, the Administration has maintained the posture that it will only operate the pollution program at a level not to exceed $150 million, and will not guarantee contracts financed through the use tax-exempt industrial development bonds.

The Committee has consistently viewed the continued availability of the guarantee of contracts financed with tax-exempt financing instruments to be essential to the viability of this program. On May 5, 1978, the Internal Revenue Service issued Revenue Ruling 78-171 which held that with respect to the Federal Government's guarantee of pollution contracts financed with tax-exempt bonds, "the interest on the bonds is excludible from the gross income of the bondholders under Section 103(a)(1)." The IRS found that the Congress did not intend that the guarantee provided through this pollution control guarantee program would be grounds to deny a bondholder the exclusion of interest income from gross income. The Committee's amendment to Section 102 of the Small Business Investment Act is consistent with Revenue Ruling 78-171 and simply reiterates existing Congressional policy that the income from such obligations be excludible from gross income.

Repeated testimony of small businesses, bankers, underwriters, and state pollution control financing agencies overwhelmingly demonstrates the importance of small businesses' continued access to this small, but crucial source of guarantee authority. The adoption by the Committee of this amendment is a reaffirmation of the Committee's judgment that it is sound public and fiscal policy to continue to permit small businesses which are forced to install nonproductive pollution equipment access to this important, and often only source of capital.

By supporting this amendment, the Committee is restating its full support for the need to reinstate and revitalize this valuable program which, in effect, has been virtually shut down by the Administration's current policy to prohibit guarantees in conjunction with industrial development bonds. Since the SBA stopped guaranteeing tax-exempt bonds, the Agency has guaranteed only five taxable bonds totaling approximately $12.9 million.

With the passage of the Committee amendment, it is the intent of the Committee that this program will once again become viable and offer to those small businesses impacted by governmental pollution regulations the opportunity to meet those regulations

through the reasonable, long-term financing that this program offers.

III. Section by Section Analysis

The Committee amendment amends three sections of the Small Business Investment Act of 1958.

Section 1 of the bill provides that the title of the bill is the "Certified Development Company Improvement Act."

Section 2 of the bill amends Section 503(a)(2) of the Small Business Investment Act of 1958 by inserting new language that prohibits SBA from setting terms and conditions on the Federal guarantee of these debentures, or regulations, which preclude the use of tax-exempt obligations with 503 projects.

Section 3 of the bill amends Section 503(a)(4) of the Small Business Investment Act of 1958 by inserting new language that requires the Administration to subordinate 503 debentures to tax-exempt obligations. It allows SBA to continue to have the discretion on the subordination of obligations other than tax-exempt obligations.

Section 4 of the bill adds a new paragraph (e)(1) to Section 503 of the Small Business Investment Act of 1958 and provides that the Administration shall not decline to participate in a project which otherwise meets the requirements of the certified development program because other sources of financing for the project include or are collateralized by tax-exempt obligations.

It also adds new paragraph (e)(2) to Section 503 and provides that neither the Administration or any other Federal Agency shall place any restrictions on the use of debentures guaranteed under this section in conjunction with tax-exempt industrial revenue bonds so long as the project otherwise complies with the regulations and procedures of the program.

Section 5 of the bill adds a new paragraph (b) to Section 102 of the Small Business Investment Act of 1958 and provides that it is the declared policy of Congress that the guarantee of payments for use of pollution control facilities would not cause the interest on tax-exempt bonds to finance such facilities to be included in the gross income of the bond holders.

It also amends section 404(b)(1) of that law by inserting new language which has the effect of providing that subject only to the existence of qualified guarantee applications of eligible business concerns and within the authority available to the Administration, the Administration shall not decline to issue guarantees on contracts financed through the use of tax-exempt industrial development bonds.

IV. Matters Required To Be Discussed Under Senate Rules

A. COMMITTEE VOTE

In compliance with rule XXVI(7)(C) of the Standing Rules of the Senate, the following rollcall vote was recorded:

On motion of Mr. Weicker to favorably report S. 499, the "Certified Development Company Act", with an amendment in the nature of a substitute and an amendment to the title:

YEAS	NAYS
Packwood	
Boschwitz	
Gorton	
Rudman	
D'Amato	
Kasten	
Pressler	
Huddleston	
Bumpers	
Sasser	
Baucus	
Levin	
Tsongas	
Dixon	
Boren	
Weicker	

B. COST OF THE LEGISLATION

In compliance with rule XXVI(11)(a) of the Standing Rules of the Senate, the committee estimates that the cost of the legislation will be equal to the amounts indicated by the Congressional Budget Office in the following letter:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., March 10, 1983.

Hon. LOWELL P. WEICKER,
Chairman, Committee on Small Business,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In accordance with the Budget Act, the Congressional Budget Office has examined S. 499, as ordered reported by the Senate Committee on Small Business, March 9, 1983. This bill would authorize the Small Business Administration (SBA) to use tax-exempt financing for the section 503 Certified Development Loan Program. Under this program which began operating in fiscal year 1981, the SBA is authorized to guarantee debentures issued by eligible state or local development companies for projects to help small business concerns. The SBA guaranteed debentures are then sold to the Federal Financing Bank to provide financing for long-term fixed asset projects.

While the tax-free financing would make the Section 503 program more attractive, both authorization and appropriation language establishes a program ceiling which limits the total amount of guarantees issued by SBA. As a result, enactment of S. 499 would not significantly effect federal credit activity or budget outlays, but rather would allow a different mix of financing by the certified development company.

This bill does not provide for any new budget authority or any new tax expenditures. However, tax expenditures under Section 103(b) of the Internal Revenue Code would increase and budget receipts would be reduced by the following amounts:

Fiscal year:	*Millions*
1983	$5
1984	10
1985	15
1986	20
1987	25

If you would like additional information on this estimate, please let us know.

Sincerely,

JAMES BLUM
(For Alice M. Rivlin, Director).

C. REGULATORY IMPACT STATEMENT

In compliance with rule XXVI(11)(b) of the Standing Rules of the Senate, it is the opinion of the Committee that no significant additional regulatory impact would be incurred in carrying out the provisions of the legislation. Nor does the Committee believe that the bill would have an additional impact on the privacy of, or result in any additional paperwork for companies that participate in the Section 503 or Pollution Control Equipment Contract Guarantee Programs.

V. CHANGES IN EXISTING LAW

In compliance with rule XXVI(12) of the Standing Rules of the Senate, changes in existing law made by the statutory provisions of the bill are as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, and existing law in which no change is proposed is shown in roman):

SMALL BUSINESS INVESTMENT ACT OF 1958

SEC. 102. *(a)* It is declared to be the policy of the Congress and the purpose of this Act to improve and stimulate the national economy in general and the small-business segment thereof in particular by establishing a program to stimulate and supplement the flow of private equity capital and long-term loan funds which small-business concerns need for the sound financing of their business operations and for their growth, expansion, and modernization, and which are not available in adequate supply: *Provided, however,* That this policy shall be carried out in such manner as to insure the maximum participation of private financing sources.

It is the intention of the Congress that the provisions of this Act shall be so administered that any financial assistance provided hereunder shall not result in a substantial increase of unemployment in any area of this country.

(b) With respect to the program authorized by sections 404 and 405 of this Act, it is the declared policy of the Congress that the guarantee of payments for use of pollution control facilities would not cause the interest on tax-exempt bonds to finance such facilities to be included in the gross income of the bondholders.

* * * * * * *

SEC. 404.* * *

(b)(1) Notwithstanding any other law, rule, or regulation or fiscal policy to the contrary, [the guarantee authorized in the case of

pollution control facilities or property may be issued] *and subject only to the existence of qualified guarantee applications of eligible small business concerns and within the authority available to tne Administration, the Administration shall not decline to issue the guarantee authorized in the case of pollution control facilities or property* wher such property is acquired by the use of proceeds from industrial revenue bonds which provide the holders interest which is exempt from Federal income tax.

* * * * * * *

SEC. 503. * * *

(a)(2) [Such guarantees] *Except as provided in subsection (e), such guarantees* may be made on such terms and conditions as the Administration may be regulation determine to be appropriate.

* * * * * * *

(a)(4) [Any debenture issued by any State or local development company with respect to which a guarantee is made under this subsection, may be subordinated by the Administration to any other debenture, promissory note, or other debt or obligation of such company.] *Any debenture issued by any State or local development company with respect to which a guarantee is made under this section, or any loan made with the proceeds of such debenture guaranteed under this section—*

(A) in the case of financings for projects which include or are collateralized by obligations described in section 103(b) of the Internal Revenue Code of 1954, shall be subordinated by the Administration to any such obligation; and

(B) in case of financings for projects which do not include and are not collateralized by obligations described in section 103(b) of the Internal Revenue Code of 1954, may be subordinated by the Administration to any other debenture, promissory note, or other debt or obligation of such company.

* * * * * * *

(e)(1) The Administration shall not decline to participate in a financing of a project under this section which otherwise meets the requirements of this section because sources of financing for the project include or are collateralized by obligations described in section 103(b) of the Internal Revenue Code of 1954.

(2) The Administration and any other agency or official of the Federal Government shall not restrict the use of debentures guaranteed under this section with obligations described in section 103(b) of the Internal Revenue Code of 1954 if the project being so financed otherwise complies with the requirements of this section.

○